IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5660 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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MP BHALODIA & OTHERS

Versus

DISTRICT PANCHAYAT

Appearance:

1. Special Civil Application No. 5660 of 1997

MR DP VORA for Petitioner No. 1-3

MR PV HATHI for Respondent No. 1

MS NANDINI JOSHI, AGP for Respondent No. 2-3

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 30/08/2001

ORAL JUDGEMENT

1. Shri M.P.Bhalodia & Others, petitioners have filed this petition praying for a writ in the nature of mandamus, or any appropriate writ, order or direction, quashing and setting aside the action of the District

Panchayat, Jamnagar, in terminating the services of the petitioner vide order dated 31st July, 1997, which has been produced at Annexure `D' to the petition.

2. The facts giving rise to this petition are as under:

2.1 It has been stated in the petition that the District Panchayat, Selection Committee, Jamnagar issued an advertisement on 3rd April, 1992, inviting application for recruitment of different posts. The petitioner No.1 and 3 applied against two posts advertised for the general category and the petitioner No.2 applied against the one post reserved for Schedule Caste candidate. Pursuant to interview, the petitioners were appointed to the post of tracer on probation of one year vide order dated 25.2.1993. The Executive Engineer, District Panchayat, Jamnagar by his order dated 31.7.1997 has terminated the services of the petitioners on the ground that finance department did not accord sanction for approval of the said post.

2.2 Being aggrieved and dissatisfied with the aforesaid order, the petitioners have filed this petition.

3. When the matter was placed for hearing on 5th August, 1997, this Court issued notice and thereafter on 25th September, 1997, this Court issued rule in this behalf.

4. Mr.P.V.Hathi, learned advocate appeared on behalf of respondents No.1 and 2 and Ms.Nandini Joshi, learned AGP appeared on behalf of the respondent No.3-State.

5. When this matter was placed for final hearing before this Court today at that time Mr.P.V.Hathi, learned advocate for the respondents No.1 and 2 and Ms.Joshi, learned AGP for the State have pointed out that the Government of Gujarat, Panchayat Rural Housing and Development Department by communication dated 21st July, 2001, pleased to reappoint Shri M.P.Bhalodia, Shri G.K.Gohil and Shri G.R.Rathod for the post of tracer in the Panchayat. The Government has reappointed them on following conditions:

(1) All the three persons are appointed as afresh and their past services will not be counted.

(2) They are deemed to be appointed as a fresh appointee.

(3) They have to forgo their past benefits and they shall have to file an undertaking and after filing undertaking the Government will make fresh appointment in this behalf.

5.1 Both the communications dated 21st July, 2001, and 27th August, 2001, are to be taken on record.

6. Learned advocate for the petitioner states that he has no objection if the matter is finally disposed of. In view of the same, I dispose of the matter with the following directions.

7. The petitioners may file a representation to the Government in connection with the fresh appointment and also in connection with the conditions imposed by the Government in this behalf. I hope and trust that the Government will consider the said representation kindly and sympathetically within two months from the receipt of the order of this Court.

In view of the aforesaid observations and directions, this petition stands disposed of with no order as to costs. Rule is discharged in the aforesaid terms.

(K.M. Mehta, J.)

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